BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **Tong Li, M.D.** Holder of License No. 27967 For the Practice of Allopathic Medicine In the State of Arizona.	Case No. MD-13-0787A **AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR LETTER OF REPRIMAND AND PROBATION**

The Arizona Medical Board ("Board") considered this matter at its public meeting on October 1, 2014, and August 5, 2015. Tong Li, M.D. ("Respondent") appeared with legal counsel Dee Dee Holden[1] before the Board for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H), after which the Board voted to issue Findings of Fact, Conclusions of Law and Order after due consideration of the facts and law applicable to this matter. Respondent appeared again at the Board's public meeting on December 2, 2015 with counsel for consideration of her Petition for Review of Specified Erroneous Findings of Fact. After due consideration of Respondent's Petition, the Board voted to issue an Amended Findings of Fact, Conclusions of Law and Order as stated herein.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 27967 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-13-0787A after receiving a complaint alleging that Respondent failed to supervise a nurse who performed facial filler injection on

[1] Ms. Holden appeared at the August 5, 2015 Board meeting.

34 year-old female patient TJ, failed to use FDA approved facial fillers and failed to adequately inform Patient TJ regarding the risks and benefits of using non-FDA approved fillers.

4. On December 26, 2012, Patient TJ met with Respondent at a medical spa to undergo Laser Intense Pulse Light (IPL) treatment to improve wrinkles to her face. During the appointment, Respondent and TJ discussed various soft tissue fillers, including the use of Jevederm and Phyell G3. TJ scheduled an appointment for February 2, 2013 for follow up after her IPL therapy. Prior to TJ's next appointment, she learned that the Respondent was out of the country. TJ kept the appointment, and on February 2, 2013 decided to receive an injection of Phyell G3 from a registered nurse employed by Dr. Robledo who was not licensed to practice in the State of Arizona. Shortly after the procedure, TJ asserts that she began to feel a burning sensation around her eyes, and complained of blurred vision, dry eyes and a headache.

5. Phyell G3 is not approved by the Food and Drug Administration ("FDA") and cannot be purchased in the United States. It contains a synthetic polymer that is not considered absorbable in the body, and therefore is permanent in nature and cannot effectively be neutralized or removed. Additionally, the product is manufactured in Europe. The manufacturer's package insert and informational web page use poor English syntax, misspell common words, and use non-standard terminology.

6. During a Formal Interview with the Board on this matter on October 1, 2014, Respondent testified that she was an independent consultant for the medical spa, did not supervise the unlicensed registered nurse and did not direct the unlicensed registered nurse to perform the procedure. When asked to explain her understanding about the source of the product, Respondent testified that she believed that the physician who owned the practice had obtained the Phyell G3 from a personal source in Mexico.

7. Respondent also further testified that she believed that she utilized Phyell G3 on approximately twenty other patients. She further testified that there were no complications and she believed it to be a safe product. The Board voted to return the matter for further investigation. Upon review of Respondent's records, she noted that she had utilized Phyell G3 on six (6) patients, all of whom had undergone touch up procedures totaling approximately twenty (20) treatments.

8. A Medical Consultant ("MC") reviewed six charts and found that for each patient treated by Respondent, the informed consent document used for each patient was inadequate and apparently made from a template for a different filler named Juvederm. Additionally, the informed consent form does not discuss the ingredients contained in Phyell G3, and does not discuss what happens to the ingredients in a patient's body over the long term, or whether the product is considered permanent.

9. During her testimony in front of the Board on August 5, 2015, Respondent testified that she was introduced to Phyell G3 by the owner of the medical spa, who provided her with information regarding the product, which he received from a colleague from Mexico who was a dermatologist. Respondent testified that she also did independent research on the product. With regard to the six patients who she treated with Phyell G3, Respondent testified that she did inform the patients that the product was manufactured in Switzerland. Respondent testified that she informed some of her patients that the product was obtained in Mexico. Respondent further testified that she was uncertain of the ultimate source of the Phyell G3 product used on her patients.

10. Also during her testimony on August 5, 2015, Respondent testified that she reviewed the product insert and thought that it was fine. Respondent also testified that she stopped using the product in June of 2013.

11. The Board found that Respondent deviated from the standard of care by knowingly prescribing a non-FDA approved medication, and by administering a non-FDA approved medication which was from an unknown source from outside of the United States with unverified quality and purity, and with no knowledge of how it was obtained or manufactured. There was potential for patient harm in the use of a non-FDA approved medication that may potentially result in disfigurement and death.

CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(q) ("any conduct that is or might be harmful or dangerous to the health of the patient or the public").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.

2. Respondent is placed on Probation for a period of six months with the following terms and conditions:

a. **Continuing Medical Education**

Respondent shall within 6 months of the effective date of this Order complete a minimum of 20 hours of Board Staff pre-approved Category I Continuing Medical Education ("CME") in the areas of legal drug prescribing, ethics, human subjects studies, and institutional review board investigation of drugs. Respondent shall within **thirty days** of the effective date of this Order submit her request for CME to the Board for pre-approval. Upon completion of the CME, Respondent shall provide Board Staff with

satisfactory proof of attendance. The CME hours shall be in addition to the hours required for the biennial renewal of medical licensure.

3. This Order supersedes all previous consent agreements and stipulations between the Board and/or the Executive Director and Respondent.

4. Prior to the termination of Probation, Respondent must submit a written request to the Board for release from the terms of this Order. Respondent's request for release will be placed on the next pending Board agenda, provided a complete submission is received by Board staff no less than 14 days prior to the Board meeting. Respondent's request for release must provide the Board with evidence establishing that he has successfully satisfied all of the terms and conditions of this Order. The Board has the sole discretion to determine whether all of the terms and conditions of this Order have been met or whether to take any other action that is consistent with its statutory and regulatory authority.

5. The Board retains jurisdiction and may initiate new action based upon any violation of this Order.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that she has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED AND EFFECTIVE this 23rd day of December, 2015.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

EXECUTED COPY of the foregoing mailed this 23rd day of December, 2015 to:

Dee Dee Holden, Esq.
Holden & Armer, P.C.
6101 South Rural Road, Suite 112
Tempe, Arizona 85283
Attorney for Respondent

ORIGINAL of the foregoing filed this 23rd day of December, 2015 with:

Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

Mary Bailey
Board Staff

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of	Case No. MD-13-0787A
Tong Li, M.D. Holder of License No. 27967 For the Practice of Allopathic Medicine In the State of Arizona	**ORDER GRANTING MOTION FOR REHEARING IN PART**

At its public meeting on December 2, 2015, the Arizona Medical Board ("Board") considered Tong Li, M.D.'s ("Respondent") Petition for Review of Specified Erroneous Findings of Fact ("Petition for Review") contesting the Findings of Fact, Conclusions of Law and Order for Letter of Reprimand and Probation ("Order") as previously ordered by the Board in case number MD-13-0787A. After considering all of the evidence, the Board voted to grant Respondent's Petition for Review in Part, and amended paragraphs 4 and 7 of the Board's Order.

ORDER

IT IS HEREBY ORDERED:

1. Respondent's Petition for Review is granted in part. The Board hereby amends its Order "Nunc Pro Tunc" and adopts an Amended Findings of Fact, Conclusions of Law and Order for Letter of Reprimand and Probation issued concurrently herewith.

DATED AND EFFECTIVE this 23rd day of December, 2015.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

EXECUTED COPY of the foregoing mailed
this 23rd day of December, 2015 to:

Dee Dee Holden, Esq.
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Attorney for Physician

ORIGINAL of the foregoing filed
this 23rd day of December, 2015 with:

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Mary Baker
Board Staff